

Jeremy S. Golden (SBN 228007)
LAW OFFICES OF ERIC F. FAGAN
2300 Boswell Road, Suite 211
Chula Vista, CA 91914
jeremy@efaganlaw.com
Tel: 619-656-6656; Fax: 775-898-5471
Attorney for Plaintiff

Andrew M. Steinheimer (SBN 200524)
ELLIS, COLEMAN, POIRIER, LAVOIE
& STEINHEIMER, LLP
555 University Ave., Suite 200 East
asteinheimer@ecplslaw.com
Tel: 916-283-8820; Fax: 916-283-8821
Attorney for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SANDRA BAXTER,) Case No.: 5:08-CV-02532-RS
Plaintiff)
v.)
CREDIT CONSULTING SERVICES,) JOINT RULE 26(f) REPORT
INC; et al,) CMC: September 10, 2008
Defendants) Time: 2:30 p.m.
) Dept.: 4
)
)
) The Honorable Richard Seeborg
)

The parties in the above action jointly submit this Rule 26(f) report and Proposed Discovery Plan:

1. JURISDICTION AND SERVICE

Jurisdiction of this Court arises under 15 U.S.C. §1692k(d) and 28 U.S.C. §1337. Plaintiff served Defendant Herendeen & Bryon on June 10, 2008. Defendant Credit Consulting Services executed a waiver of service form on June 20, 2008. Both Defendants have filed an answer to the complaint.

1 **2. FACTS**

2 Plaintiff:

3 Plaintiff alleges that Defendants violated numerous provisions of the federal Fair Debt
4 Collection Practices Act (“FDCPA”), and the California Rosenthal Act in its attempts to
5 collect a consumer debt from Plaintiff. Plaintiff alleges, inter alia, that Defendants sued
6 Plaintiff to collect a hospital debt that it knew or should have known did not belong to her.
7 Plaintiff is entitled to statutory damages, actual damages, attorneys fees and costs under the
8 Rosenthal Act and the FDCPA.

9 Defendants:

10 Defendants deny Plaintiff’s allegations and contests Plaintiff’s damage claims.

11 **3. LEGAL ISSUES**

12 See above.

13 **4. MOTIONS**

14 There are no motions pending. Both Plaintiff and Defendants may file a motion for
15 summary judgment.

16 **5. AMENDMENT OF PLEADINGS**

17 Plaintiff does not anticipate amending the pleadings.

18 **6. EVIDENCE PRESERVATION**

19 The parties will preserve all relevant evidence in their custody and control.

20 **7. DISCLOSURES**

21 The parties will exchange by September 12, 2008, the information required by Fed. R.
22 Civ. P. 26(a)(1).

23 **8. DISCOVERY**

24 (a) Plaintiff’s discovery will be directed toward the underlying debts in the Action
25 and all attempts made by Defendant to collect those debts, including but not limited to all
26 reports made by Defendants to credit reporting agencies. Plaintiff’s discovery will also be
27 directed toward the employee training program, and employee supervision practices of
28 Defendants. Plaintiff will also conduct discovery into Defendants’ affirmative defenses.

1 (b) Defendants' discovery will be directed toward Plaintiff's allegations, damages
2 and affirmative defenses.

3 (c) Discovery will proceed according to the Federal Rules of Civil Procedure and is
4 not to be conducted in phases or otherwise limited.

5 (d) Requests and responses to interrogatories shall be governed by Fed. R. Civ. P.
6 33

7 (e) Requests for Admission shall be governed by Fed. R. Civ. P. 36.

8 (f) Plaintiff anticipates taking PMK depositions of both Defendants. Defendant
9 anticipates taking Plaintiff's deposition.

10 **9. CLASS ACTIONS**

11 N/A

12 **10. RELATED CASES**

13 There is a state court collection action pending on the underlying debts.

14 **11. RELIEF**

15 Plaintiff seeks statutory damages, actual damages, attorneys fees and costs under the
16 Rosenthal Act and the FDCPA.

17 **12. SETTLEMENT AND ADR**

18 The parties agree to use the court's mediation services.

19 **13. CONSENT TO A MAGISTRATE JUDGE FOR ALL PURPOSES**

20 Plaintiff consents to a magistrate judge. The Defendants do not consent to a magistrate
21 judge for all purposes.

22 **14. OTHER REFERENCES**

23 N/A

24 **15. NARROWING OF ISSUES**

25 N/A

26 **16. EXPEDITED SCHEDULE**

27 N/A

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1 **17. SCHEDULING**

2 (a) Experts shall be disclosed by December 31, 2009.
3 (b) Discovery shall be completed by March 31, 2009.
4 (c) Dispositive motions shall be heard by April 30, 2009.
5 (d) Pre-trial conference shall occur on June 1, 2009.
6 (e) Trial shall commence on June 22, 2009.

7 (f) Defendants request that this case be stayed until the resolution of the underlying
8 collection action. Plaintiff has sued CCS and its attorney for conduct related to the
9 underlying case. Defendants believe that the resolution of the underlying case may affect the
10 outcome and claims in this case. Further, by suing CCS' attorney for prosecuting the
11 underlying case, a potential conflict has arisen and issues of attorney-client privilege and
12 attorney work-product will necessarily be implicated in the discovery proceedings in this
13 action. For these reasons, Defendants request that the instant federal action be stayed under
14 the underlying collection action is resolved. Plaintiff opposes such a request.

15 **18. TRIAL**

16 Plaintiff requested a jury trial and estimates the trial will take three days.

17 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

18 Plaintiff does not know of any non-party interested entities or persons.

19 **20. OTHER MATTERS**

20 Defendants request that this case be stayed until the resolution of the underlying
21 collection action. Plaintiff has sued CCS and its attorney for conduct related to the
22 underlying case. Defendants believe that the resolution of the underlying case may affect the
23 outcome and claims in this case. Further, by suing CCS' attorney for prosecuting the
24 underlying case, a potential conflict has arisen and issues of attorney-client privilege and
25 attorney work-product will necessarily be implicated in the discovery proceedings in this
26 action. For these reasons, Defendants request that the instant federal action be stayed under
27 the underlying collection action is resolved. Plaintiff opposes such a request.

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2 Date: Aug. 27, 2008
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LAW OFFICES OF ERIC F. FAGAN

5 _____s/ Jeremy S. Golden
6 Jeremy S. Golden
7 Attorney for Plaintiff
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10 Date: Aug. 27, 2008
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ELLIS, COLEMAN, POIRIER, LAVOIE, &
STEINHEIMER, LLP
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14

15 _____s/ Andrew Steinheimer_____
16 Andrew Steinheimer
17 Attorney for Defendants
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